

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Gunter Stempfer, et al.  
Application No.: 10/568,329  
Filing Date: February 15, 2006  
Confirmation No.: 2915  
Title: Process for the Preparation of Recombinant Polypeptides  
Examiner: Quang Nguyen  
Group Art Unit: 1633

COMMUNICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Upon review of the response filed yesterday, May 13, 2009, to the March 13, 2009, Restriction Requirement, Applicants discovered minor errors in footnotes 1 and 2 on page 7. Applicants respectfully request replacement of the attached page 7 containing the corrected footnotes for page 7 as originally filed. No other changes are made on page 7 or in the response as filed.

Favorable action is respectfully requested.

In the event this response is not timely filed, Applicants hereby petition for the appropriate extension of time and request that the fee for the extension along with any other fees which may be due with respect to this paper be charged to our Deposit Account No. 12-2355.

Respectfully submitted,

LUEDEKA. NEELY & GRAHAM, P.C.

By: /Mark S. Graham/

Mark S. Graham  
Registration No. 32.355

Application No. 10/568,329

Date: May 14, 2009  
P.O. Box 1871  
Knoxville, Tennessee 37901  
(865) 546-4305

Application No. 10/568,329  
May 13, 2009  
Response to Office Action Dated March 13, 2009

Claim 24.<sup>1</sup> Claim 1 is directed to the embodiment where the fermentation medium is concentrated at least before interruption of further processing as called for in step (b). Claim 24 covers concentrating the medium either before or after interruption of further processing.<sup>2</sup> So Claim 1 is at least one embodiment of Claim 24. It is hard to see how these claim groups (the Claim 1 group claims and the Claim 24 group claims) could be said to be independent or distinct for purposes of MPEP §803.

Since independent Claims 1 and 24 and their associated dependent claims are closely related in scope, they also will entail a search of essentially the same art. At a minimum, a search of art pertaining to the subject matter of Claim 1 will entail a search of the art pertaining to the subject matter of Claim 24, and visa versa. This is clear beyond peradventure. It is difficult to see how a search of substantially the same if not the identical art for the subject matter of Claims 1 and 24 (and their respective dependents) could be said to impose any undue or "serious" burden on the Examiner.

Because the Examiner has not shown any serious burden if examination of all the claims is conducted in one proceeding and the claims cover closely related subject matter, Applicants respectfully assert that the Examiner should reconsider and withdraw the restriction requirement in this case.

In view of the foregoing, Applicants urge favorable reconsideration and allowance of Claims 1, 3 – 14, 16 – 22, and 24 - 29.

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<sup>1</sup> Once again, the Examiner has paraphrased Claim 24 incorrectly. Claim 24 is very much like Claim 1, except the fermentation may be concentrated in Claim 24 either before or after interruption of further processing in step (b).

<sup>2</sup> Of course, Claim 24 covers concentrating the fermentation medium before, during, and/or after interruption of further processing as called for in step (b).